

DAM ACROSS MISSOURI RIVER

FEBRUARY 26, 1925.—Referred to the House Calendar and ordered to be printed

Mr. BURTNESS, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT

[To accompany S. 2085]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill S. 2085, an act to authorize the Broadwater irrigation district, a Montana organization, to construct a dam across the Missouri River, having considered the same, report thereon and recommend that it pass.

The bill has the approval of the War Department and the Federal Power Commission, as will appear by the letters attached and which are made a part of this report.

FEDERAL POWER COMMISSION,
Washington, March 21, 1924.

HON. WESLEY L. JONES,
United States Senate, Washington, D. C.

DEAR SENATOR JONES: In compliance with your request of March 6, 1924, I have the honor to submit the following report touching the merits of S. 2085, a bill to authorize the Broadwater irrigation district, a Montana organization, to construct a dam across the Missouri River. The bill provides that "no dam constructed under the consent hereby granted shall be used to develop water power nor to generate electricity, but the use of the dam by the construction shall be limited to irrigation." It authorizes the dam to be constructed in accordance with the provisions of the act entitled "An act to regulate the construction of dams across navigable water," approved June 23, 1910. While the act referred to is repealed by the Federal water power act, in so far as its provisions are inconsistent with that act, that is, in so far as it relates to dams intended for use for the development of water power, it would appear desirable as proposed to make any grant subject to so much of the provisions of the act of 1910 as are practicable under the circumstances, unless the committee should deem it more desirable to express specifically in the proposed legislation the conditions to be applied to the grant.

The public service commission of Montana states in the Montana utilities reports that the Broadwater irrigation district has been organized to irrigate 10,000 acres by gravity from a diversion dam above Toston. The proposed legislation appears to be in furtherance of this plan.

In the 1922 report the commission, in discussing irrigation possibilities, makes the following statement under the heading, "Missouri River project":

"This proposed project was first called to the commission's attention over a year ago, but owing to the magnitude of the project and the necessity of a preliminary organization for the purpose of raising funds to initiate the investigations, those interested in the scheme have not taken definite steps to attempt the organization. However, plans are now under way at least to have the project thoroughly investigated.

"It is proposed to build a dam across the Missouri River below Lombard and divert water by gravity into the bench lying east of the river extending north as far as Canyon Ferry, and also to divert water on the west side of the river to cover Helena Valley. Power development at the dam is also contemplated to be used in pumping water to higher elevations not covered by the gravity canals. This project would cover approximately 150,000 to 200,000 acres of land."

The site of the dam referred to in the above quotation is apparently near that proposed by the Broadwater irrigation district, or may be the same site. It is not clear from the report and the commission has not the information to determine whether the Broadwater district project and the "Missouri River project" are the same or different schemes. If they are different schemes, it might be that the project of the Broadwater district would conflict with the larger and more comprehensive project which was to be investigated by the State commission.

There are power-site reserve lands at or near the site of the dam proposed by the Broadwater irrigation district. The use of these lands by an irrigation enterprise would require, in addition to the authorization proposed in S. 2085, authorization under the act of March 3, 1891 (26 Stat. 1095), as amended by the act of May 11, 1898 (30 Stat. 404). Furthermore, if lands in a power-site reserve are to be used, such use would, under the provisions of the Federal water power act, be subject to such stipulations as the Federal Power Commission might deem necessary for the protection of water-power interests in such lands. Whether the proposed dam or other structures in connection with it would make use of lands reserved as power sites can not be determined without more definite information as to the exact location of the dam and structures.

The draft of the bill submitted specifically states that "no dam constructed under the consent hereby granted shall be used to develop water power nor to generate electricity." It is not known whether power development would or would not be practicable at the proposed dam in connection with the irrigation use. If it is, it would seem undesirable to estop such use by provisions in the consent granted. It is suggested, therefore, that the proviso might read:

"That no dam constructed under the consent hereby granted shall be used to develop water power or to generate electricity, except specific authority therefor has been obtained under the provisions of the Federal water power act."

Very truly yours,

O. C. MERRILL, *Executive Secretary.*

WAR DEPARTMENT, February 5, 1924.

Respectfully returned to the chairman Committee on Commerce, United States Senate.

So far as the interests committed to this department are concerned, I know of no objection to the favorable consideration by Congress of the accompanying bill, S. 2085, Sixty-eighth Congress, first session, to authorize the Broadwater irrigation district, a Montana organization, to construct a dam across the Missouri River, if it be amended as indicated in red thereon to make it conform to recent acts of Congress authorizing similar structures.

The navigable portions of the Missouri River do not lie within the limits of a single State, and the consent of Congress is, therefore, required under section 9 of the river and harbor act of March 3, 1899 (30 Stat. 1151), for the construction of a dam in the stream.

JOHN W. WEEKS, *Secretary of War.*